IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

1. FIRST APPEAL NO. 253 OF 2006
IN
L.A.R.NO.103 OF 2004
Along with
CIVIL APPLICATION NO.5495 of 2005
IN
FIRST APPEAL NO.253 OF 2006.

1. The State of Maharashtra & Anr. .. Appellants
Vs
Shri Sitaram Sakharam Bhoir .. Respondent.

WITH

2. FIRST APPEAL NO. 254 OF 2006
IN
L.A.R.NO.104 OF 2004
Along with
CIVIL APPLICATION NO.5497 of 2005
IN
FIRST APPEAL NO.254 OF 2006.

1. The State of Maharashtra & Anr. .. Appellants
Vs
Shri Sitaram Sakharam Bhoir .. Respondent.

WITH

3. FIRST APPEAL NO. 255 OF 2006
IN
L.A.R.NO.105 OF 2004
Along with
CIVIL APPLICATION NO.5499 of 2005
IN
FIRST APPEAL NO.255 OF 2006.

1. The State of Maharashtra & Anr. .. Appellants
Vs
Shri Sitaram SakHaram Bhoir .. Respondent.

Mr. K.K.Tated, AGP for the appellants.
Mr Sachin Punde, for the respondent.

CORAM : SMT RANJANA DESAI & D.B.BHOSALE,JJ.
DATE : 15.02.06.
PC:

1. We have heard Mr Tated, learned counsel for the

appellants and Mr Punde, learned counsel for the respondent and perused the impugned judgment and award dated 14.1.2005 passed by the Civil Judge, Sr.Dn., Alibag in land acquisition references. Our attention is drawn to paragraphs 20 & 21 of the impugned judgment, which read thus:

> "20. It seems from the certified copy of the judgment (Exh.12) in First Appeal No.1074 of 1989, The State of Maharashtra Vs. Laxman Bhiva Patil, that the Hon'ble High Court, Bombay, granted compensation at the rate of Rs.25/- per sq.mtr to the land situated at village Pendhar, notified for acquisition on 3.2.1970. The lands under the references in hand and the lands involved in F.A.No.1074 of 1989 are virtually identical situated in the same area bearing similar topographical and physical characteristics covered by the same notification dt. 3.2.1970. As the Hon'ble High Court, Bombay has determined the compensation for the land situated at village Pendhar @ Rs.25/- per sq.mtr I have no reason to take different view. The Bombay-Pune National Highway is at the distance of 400,500 and 600 mtrs from the lands under these three references. In a case reported in AIR 1998 Supreme Court 781, Land Acquisition Officer, Revenue Divisional Officer, Chittor vs. Smt. L.Kamalamma, the Apex Court observed that -
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> "When a land is acquired which has the potentiality of being developed into an urban land, merely because some portion of it abuts the main road, high rate of compensation should be paid while in respect of the lands on the interior side compensation should be at lower rate may not stand to reason because when sites are formed those abutting the main road may have its advantages as well as disadvantages. Many a discerning customer may prefer to stay in the interior and far away from the main road and may be willing to pay reasonably higher price for that site. One cannot rely on the mere possibility so as to indulge in a

> meticulous exercise of classification of the land when the entire land was acquired in one block and therefore classification of the same into different categories does not stand to reason."
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> "21. Thus, when the nearby land of the lands under reference fetch market value at the rate of Rs.25/- per sq.mtr as on the date of notification, certainly the lands under these reference fetch the same market value. As the Hon'ble High Court Bombay has already determined the market value of the land of village Pendhar, Taluka Panvel, at the rate of Rs.25/- per sq.mtr. there is no reason as to why the same benefit should not be extended to the claimants in the present references. Thus, considering the topography, available amenities, industrial and commercial activities, development prospects of village Pendhar, compensation granted by the Hon'ble High Court Bombay in First Appeal No.1074/89 and after giving my most anxious and careful consideration to the oral arguments advanced by the L.D.G.P Shri P.S.Patil, for the opponent and argument advanced by learned advocate Shri R.R.Mhatre, for the claimant, I fix market value of the lands under these three reference at the rate of Rs.25/- per sq.mtr. as on the date of notification. Thus, the claimant is entitled for enhanced compensation at the rate of Rs.25/- per sq.mtr with other benefits as contemplated under section 23(1-A), 23(2) and u/sec 28 of the Land Acquisition Act."

2. The learned counsel for the respondent states that the present case is squarely covered by the Judgment of this Court in **The State of Maharashtra Vs. Shri Laxman Bhiva Patil, First Appeal No.1074 of 1989** Alongwith Cross Objections (ST) No.6717 of 1990 And Civil Application No.4851 of 2003 decided on 10.8.2004 by the Division Bench of this Court consisting of F.I.Rebello & Anoop V. Mohta, JJ. When we confronted Mr Tated, learned AGP for the appellant, with this judgment he was unable to dispute this position. In view of this, the present Appeals along

with the civil applications are, accordingly, dismissed.

(D.B.BHOSALE, J.) **(SMT.RANJANA DESAI,J.)**